

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/1/07

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL P. TIERNEY,

Plaintiff,

-against-

GERARD A. NEUMANN,

Defendant.

Index No.: 07-CV 4090-BSJ-JCF

**STIPULATION AND
PROPOSED ORDER
STAYING DISCOVERY**

WHEREAS, this case involves, *inter alia*, a dispute regarding the meaning of the organizational documents and agreements related to Seneca Investments LLC, which dispute arose as a result of Omnicom Group, Inc.'s failure to consent to certain distributions of money to the member owners of Seneca Investments LLC;

WHEREAS, Plaintiff Michael P. Tierney ("Tierney") is currently litigating a case against Omnicom Group, Inc. ("Omnicom") in the Southern District of New York entitled *Tierney v. Omnicom*, 06 Civ. 14302 (LTS) (the "Omnicom Action");

WHEREAS this action and the Omnicom Action may require overlapping document and testimonial discovery;

WHEREAS, Omnicom in the Omnicom Action filed its Motion to Dismiss the Second Amended Complaint (the "Motion to Dismiss") on August 27, 2007, which was fully briefed on September 20, 2007;

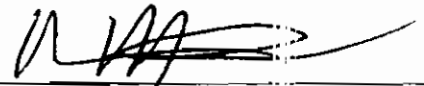
WHEREAS, Michael P. Tierney and Omnicom agreed in the Omnicom Action that it would be in the interest of judicial economy and efficiency to stay all discovery pending resolution of the Motion to Dismiss and as a result a stay was so ordered in the Omnicom Action;

THEREFORE, the Parties, through their respective counsel, hereby stipulate and agree as follows:

1. Upon the Court's signing of this stipulation, the previously agreed upon and ordered discovery schedule is null and void;
2. All discovery will be stayed until entry of a decision on the Motion to Dismiss in the Omnicom Action, at which time the stay shall be deemed lifted;
3. If a decision on the Motion to Dismiss is not entered on or before January 31, 2008, the stay shall be deemed lifted and either Party may request that the Court extend the stay; and
4. Within two weeks of the date the stay is lifted, the parties shall meet and confer concerning a new joint proposed discovery plan, which they shall submit to the Court within two weeks of the date of the lifting of the stay.

Dated: New York, New York
October 31, 2007

HUGHES HUBBARD & REED LLP

By: 

Christopher M. Paparella
Jason A. Masimore

One Battery Park Plaza
New York, New York 10004-1482
(212) 837-6000

Attorneys for Defendant Gerard A. Neumann.

Dated: New York, New York
October 31, 2007

LAW OFFICE OF WILLIAM COUDERT RAND

By: W.C. Rand
William Coudert Rand
711 Third Avenue, Suite 1500
New York, New York 10017-4056
(212) 286-1425

Attorneys for Plaintiff Michael P. Tierney.

SO ORDERED.

Dated: 10/31/08

James C. Francis
Hon. James C. Francis
United States Magistrate Judge